IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 14704 of 2006(A)

AGAINST THE ORDER DATED 18/02/2003 IN IA. 3073 /2002 IN OS.625/2002 of MUNSIFF COURT, THIRUVALLA

.....

PETITIONER:

---

1. SREE DURGE KSHETHRA SAMRAKSHANA SAMITHI & CHARITABLE SOCIETY NO.P 129, EAST OTHARA, REP. BY ITS PRESIDENT, K.V.DIVAKARAN PILLAI, S/O.VASUDEVAN PILLAI, KEEZHETHARAYIL HOUSE, EAST OTHARA, THIRUVALLA.

2. P.S.PRADOSHKUMAR, S/O.SREEDHARA PANICKER PAYIKKATTU HOUSE, EAST OTHARA, THIRUVALLA, SECRETARY, SREE DURGA KSHETHRA SAMRAKSHANA SAMITHI & CHARITABLE SOCIETY NO.P 129, EAST OTHARA, THIRUVALLA.

3. M.N.KESAVAN NAIR, S/O.MADHAVAN PILLAI, KEERIKKATTU HOUSE, EAST OTHARA, THIRUVALLA, TREASURER, SREE DURGA KSHETHRA SAMRAKSHANA SAMITHI & CHARITABLE SOCIETY NO.P 129, EAST OTHARA, THIRUVALLA.

4. G.SURESHKUMAR @ SOMAN, S/O.GOPALA PANICKER, KANDANATTIL, PALLATHU HOUSE, EAST OTHERA, THIRUVALLA, EXE.COMMITTEE MEMBER, SREE DURGE KSHETHRA SAMRAKSHANA SAMITHI & CHARITA-BLE SOCIETY NO.P 129, EAST OTHARA, THIRUVALLA.

5. E.P.RADHAKRISHNAN NAIR, S/O.PARAMESWARAN PILLAI, PANNIVIZHA PARAMESWAR, EAST OTHARA, THRIUVALLA.

BY ADV. SRI.S.SUBHASH CHAND

RESPONDENTS:
---

1. NARAYANAN NAMBOOTHIRI, S/O.LATE DAMODHA-
   RAN NAMPOOTHIRY,
   MAMPATTAILLOM, EAST OTHARA MURI,
   ERAVIPEROOR VILLAGE.

2. SREE KUMAR SHARMA,
   S/O.NARAYANA NAMPOOTHIRY,
   MAMPATTAILLOM, (SREE BHAVAN), EAST OTHARA MURI,
   ERAVIPEROOR VILLAGE.

3. MADHUSOODANAN SHARMA,
   S/O.NARAYANAN NAMPOOTHIRY, TEMPLE PRIEST,
   MAMPATTAILLOM, (MANIDEEPAM), EAST OTHARA,
   ERAVIPEROOR VILLAGE, THIRUVALLA TALUK.

4. PURUSHOTHAMA SHARMA,
   S/O.NARAYANAN NAMPOOTHIRY,
   MAMPATTAILLOM (MANIDEEPAM), EAST OTHARA MURI,
   ERAVIPEROOR VILLAGE.

5. UNNIKRISHNAN NAMPOOTHIRY,
   S/O.NEELAKANDAN NAMPOOTHIRY, TEMPLE PRIEST,
   MAMPATTAILLOM, (MANI DEEPAM), EAST OTHARA MURI,
   ERAVIPEROOR VILLAGE.

6. SREE DURGA KSHETHRA SAMRAKSHANA SAMITHI
   PUTHUKULANGARA, OTHARA BRANCH NO.1628, UNDER THE
   KERAL KSHETHRA SAMRAKSHANA SAMITHI, REP. BY ITS
   PRESIDENT P.K.NARAYANA PILLAI,S/O.KUTTAN PILLAI,
   PANNIVIZHA HOUSE, EAST OTHARA, ERAVIPEROOR
   VILLAGE.

7. SREE DURGA KSHETHRA SAMRAKSHANA SAMITHI
   PUTHUKULANGARA, OTHARA BRANCH NO.1628, UNDER
   THE KERALA KSHETHRA SAMRAKSHANA SAMITHI, REP. BY
   ITS SECRETARY P.K.GOPALAKRISHNAN NAIR,
   S/O.GOVINDA PILLAI, LAKSHMI VILASOM, EAST OTHERA,
   ERAVIPEROOR VILLAGE.

8. SREE DURGA KSHETHRA SAMRAKSHANA SAMITHI
& CHARITABLE SOCIETY NO.P 129, EAST OTHARA,
REP. BY ITS VICE PRESIDENT, T.S.SURESHKUMAR,
THEKKETHOMPADATHU HOUSE, EAST OTHARA MURI,
ERAVIPEROOR VILLAGE.

BY ADV. SRI.CHERIAN GEE VARGHESE
SRI.P.HARIDAS
SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioners'Exts:

Ext.P1 true copy of the plaint in OS 625/02 submitted by respondents 1 to 5 (excluding annexure)

Ext.P2 true copy of the written statement submitted by the petitioners to Ext.P1 plaint in OS 625/2002.

Ext.P3 true copy of IA 3073/02 in OS 625/02 submitted by respondents 1 to 5.

Ext.P4 true copy of the objection submitted by the petitioners to Ext.P3 interlocutory application (excluding annexure)

Ext.P5 true copy of the order dated 18.2.2003 passed by the court of the Munsiff, Thiruvalla in IA 3073/02 in OS 625/2002.

Ext.P6 true copy of the order dated 3.2.2005 passed by the court of the Subordinate Judge, Thiruvalla in IA 636/03 in CMA 19/03.

Ext.P7 true copy of the judgment dated 3.2.2005 passed by the court of the Subordinate Judge, Thiruvalla in CMA 19/03.

Ext.P8 true copy of the judgment dated 4.4.05 passed by this Hon'ble Court in WP(C) 9168/05.

Ext.P9 true copy of the judgment dated 17.12.2005 passed by the court of the Subordinate Judge, Thiruvalla in CMA 19/03.

Ext.P19 true copy of the settlement dated 26.2.2003.

M.N.Krishnan, J.

==========

W.P(C).No.14704 of 2006

==========

Dated this the 27th day of November, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside Ext.P9 in C.M.A.No.19 of 2003. The suit relates to a Temple and the principle question involved is whether it is a public Temple or a private Temple. The court below while answering the injunction application observed that it is a private Temple and disposed of the matter. Question whether it is a private Temple or a public Temple has to be decided after allowing the parties to adduce evidence in the matter.

2. Therefore, I dispose of the Writ Petition directing the trial court to dispose of the matter within a period of four months from today untrammelled by any of the observations contained in its own order or in the order of the appellate court.

M.N.Krishnan,
Judge.

ess 27/11